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EXAMINER

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**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Application Number: 09/870,614  
Filing Date: May 31, 2001  
Appellant(s): BROUSSARD, SCOTT J.

**MAILED**

**MAR 23 2007**

**Technology Center 2100**

Kevin L. Daffer (reg. 34,146)  
For Appellant

**EXAMINER'S ANSWER**

This is in response to the appeal brief filed 11-15-2006.

**(1) *Real Party in Interest***

A statement identifying the real party in interest is contained in the brief.

**(2) Related Appeals and Interferences**

The following are the related appeals, interferences, and judicial proceedings known to the examiner which may be related to, directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal:

09/870,613

09870,615

09/870,620

09/870,621

09/870,622

09/870,624

**(3) Status of Claims**

The statement of the status of claims contained in the brief is correct.

**(4) Status of Amendments After Final**

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

**(5) Summary of Claimed Subject Matter**

The summary of claimed subject matter contained in the brief is correct.

**(6) Grounds of Rejection to be Reviewed on Appeal**

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

**(7) Claims Appendix**

The copy of the appealed claims contained in the Appendix to the brief is correct.

**(8) Evidence Relied Upon**

4,951,229                      DiNicola                      8-1990

Sun Microsystems, Mixing Heavy and Light components, 2/98, volume 3, no.4, swing version 1.0, hereinafter referred to as Fowler.

Sun Microsystems, Introducing swing, 2/98, volume 3, no.4, swing version 1.0 hereinafter referred to as SUN.

**(9) Grounds of Rejection**

The following ground(s) of rejection are applicable to the appealed claims:

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 2, 5, and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by DiNicola et al., Patent #4,951,229, hereinafter DiNicola.

3. With regard to claim 1, which teaches a display system, comprising: a display, DiNicola teaches, in column 2, line 68, the use of a display. With regard to claim 1

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further teaching a display buffer coupled to the display, DiNicola teaches, in column 2, line 59 through column 3, line 16, the use of several different buffers used in the display of an image. With regard to claim 1, further teaching a processor adapted to execute an application program; DiNicola teaches, in column 3, lines 7-10, the use of a processor in the application program. With regard to claim 1, further teaching producing images on the display where the images are either in a first mode by forwarding in sequence to the display or in a second mode, compiled as a combination image of at least one image drawn over another image, DiNicola teaches, in column 2, line 59 through column 3, line 16, specifically column 3, lines 10-13, a system that can be configured to either send images to the display separately or to combine two or more of the images and send them as a composite display image. With regard to claim 1, further teaching presenting the image to the buffer before forwarding, DiNicola teaches, in column 3, lines 62-68 and column 5, lines 18-32, buffering the images before sending to the display.

4. With regard to claim 2, which teaches the application program disables or enables buffering of the images by configuring the processor to execute in either or the first or second mode, DiNicola teaches, in column 2, line 59 through column 3, line 16, specifically column 3, lines 10-13, a system that can be configured to either send images to the display separately or to combine two or more of the images and send them as a composite display image, there for providing them with the optional intermediate buffer (see column 5, lines 18-27).

5. With regard to claim 5, which teaches a computer-readable memory, comprising: an operating system, DiNicola teaches, in column 3, line 50 an operating system. With

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regard to claim 5, further teaching an application program running on code compatible with the operating system, DiNicola teaches, in column 1, lines 6-15, an application program running on code compatible with the operating system. With regard to claim 5, further teaching a software component invoked by an application program that produces images on the display where the images are either forwarded in sequence to the display or are compiled as a combination image of at least one image drawn over another image, DiNicola teaches, in column 2, line 59 through column 3, line 16, specifically column 3, lines 10-13, a system that can be configured to either send images to the display separately or to combine two or more of the images and send them as a composite display image. With regard to claim 5, further teaching the optional buffering of the sequence of images as a combination image before sending the combination image to the display, DiNicola teaches, in column 3, lines 62-68 and column 5, lines 18-32, an intermediate buffer that is not required, as a matter of efficiency, but mentioned in the reference.

6. With regard to claim 6, which teaches object code being part of a graphical user interface associated with the application program, DiNicola teaches, in column 3, lines 10-13, a graphical user interface associated with the application program.

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 3, 4, and 7-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over DiNicola and Fowler, *Mixing Heavy and Light Components*.

9. With regard to claim 3, DiNicola teaches the system that either transmits images to the display sequentially or as a combination image (see column 3, lines 10-13) and the use of 3 images layered on top of one another in a combination image (see column 5, lines 32-46), but does not teach images comprising frame, panel, and button images. Fowler teaches Mixing Swing an AWT in the same application program (see page 1, paragraph 2) as is taught in the specification of the case, but further teaches the use of Frame, Panel, and Button images (see Z-order limitations (page 5), and Swing scroll pane (page 6)). It would have been obvious to one of ordinary skill in the art, having the teachings of DiNicola and Fowler before him at the time the invention was made to modify the system of transmitting images either in sequence or as a combined image of DiNicola with the Frame, Panel, and Button images of Fowler. One would have been motivated to make such a combination because these are elements implemented in Swing which is referred to in the specification on page 34, the use of Java would allow for portability of the image display system, this would prove useful if the remote system was run on a different operating system, and because Frame, Panel, and Button images are images that are frequently transferred to displays.

10. With regard to claim 4, DiNicola teaches the system that either transmits images to the display sequentially or as a combination image (see column 3, lines 10-13), but does not teach the use of Java. Fowler teaches Mixing Swing an AWT in the same application program (see page 1, paragraph 2) as is taught in the specification of the

case, but further teaches the use Java see page 2, paragraph 4. It would have been obvious to one of ordinary skill in the art, having the teachings of DiNicola and Fowler before him at the time the invention was made to modify the system of transmitting images either in sequence or as a combined image of DiNicola to include the API system using Java of Fowler. One would have been motivated to make such a combination because Swing is referred to in the specification on page 34, and because the use of Java would allow for portability of the image display system, this would prove useful if the remote system was run on a different operating system.

11. With regard to claim 7, DiNicola teaches the system that either transmits images to the display sequentially or as a combination image (see column 3, lines 10-13), but does not teach a software component comprising an API of code, which translates between code within the application program and the operating system. Fowler teaches Mixing Swing an AWT in the same application program (see page 1, paragraph 2) as is taught in the specification of the case, and further teaches the use Java see page 2, paragraph 4. It is inherently know in the art that Swing a AWT are application program interfaces, which are defined as a set of routines that translate between an application program and a computer's operating system (see Microsoft Computer Dictionary Fifth Edition, page 33). It would have been obvious to one of ordinary skill in the art, having the teachings of DiNicola and Fowler before him at the time the invention was made to modify the system of transmitting images either in sequence or as a combined image of DiNicola to include use of an API as did Fowler. One would have been motivated to make such a combination because Swing is referred to in the specification on page 34,



and because the use of Java would allow for portability of the image display system, this would prove useful if the remote system was run on a different operating system.

12. With regard to claim 8, DiNicola teaches the system that either transmits images to the display sequentially or as a combination image (see column 3, lines 10-13), but does not teach an API that emulates that of a second API based on a windows-based version of the operating system. Fowler teaches Mixing Swing and AWT in the same application program (see page 1, paragraph 2), as is taught in the specification of the case, and further teaches this being a windows based operating system (see the figure on page 7. ). It would have been obvious to one of ordinary skill in the art, having the teachings of DiNicola and Fowler before him at the time the invention was made to modify the system of transmitting images either in sequence or as a combined image of DiNicola to include use of two different APIs as did Fowler. One would have been motivated to make such a combination because Swing is referred to in the specification on page 34, and because the use of Java would allow for portability of the image display system, this would prove useful if the remote system was run on a different operating system.

13. With regard to claim 9, DiNicola teaches the system that either transmits images to the display sequentially or as a combination image (see column 3, lines 10-13), but does not teach the use of a second API, that of AWT. Fowler teaches Mixing Swing and AWT in the same application program (see page 1, paragraph 2) as is taught in the specification of the case. It would have been obvious to one of ordinary skill in the art, having the teachings of DiNicola and Fowler before him at the time the invention was

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made to modify the system of transmitting images either in sequence or as a combined image of DiNicola to include use of two different APIs, including AWT as did Fowler.

One would have been motivated to make such a combination because Swing is referred to in the specification on page 34, and because the use of Java would allow for portability of the image display system, this would prove useful if the remote system was run on a different operating system.

14. With regard to claim 10, DiNicola teaches the system that either transmits images to the display sequentially or as a combination image (see column 3, lines 10-13), but does not teach the application program being written in Java. Fowler teaches Mixing Swing and AWT in the same application program (see page 1, paragraph 2) as is taught in the specification of the case, and further teaches the use of Java see page 2, paragraph 4. It would have been obvious to one of ordinary skill in the art, having the teachings of DiNicola and Fowler before him at the time the invention was made to modify the system of transmitting images either in sequence or as a combined image of DiNicola to include use of Java as did Fowler. One would have been motivated to make such a combination because Swing is referred to in the specification on page 34, where Swing is said to default to generating a combined image, and because the use of Java would allow for portability of the image display system, this would prove useful if the remote system was run on a different operating system.

15. Claims 11-13, 18, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over DiNicola and Sun Microsystems, *Introducing Swing*, hereinafter Sun.

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16. With regard to claims 11 and 18, DiNicola teaches the system that either transmits images to the display sequentially or as a combination image (see column 3, lines 10-13), but does not teach the operating system comprising a Windows, Unix, or OS/2 computer operating system. Sun teaches Swing which is stated in the specification of the application to default to buffering it's output, similar to that of the DiNicola, but further teaches on page 1, paragraph 4, running under operating systems such as Windows, Unix, and so on. It would have been obvious to one of ordinary skill in the art, having the teachings of DiNicola and Sun before him at the time the invention was made to modify the system of transmitting images either in sequence or as a combined image of DiNicola to include use of Java as did Sun. One would have been motivated to make such a combination because Swing is referred to in the specification on page 34, where Swing is said to default to generating a combined image, and because the use of Java would allow for portability of the image display system, this would prove useful if the remote system was run on a different operating system.

17. With regard to claim 12, DiNicola teaches, in column 1, lines 6-15, an application program running on code compatible with the operating system, and a system that either transmits images to the display sequentially or as a combination image (see column 3, lines 10-13), the optional buffering of the sequence of images as a combination image before sending the combination image to the display (see column 3, lines 62-68 and column 5, lines 18-32), but doesn't teach creating a graphical representation of the object using an interface independent of the operating system. Sun teaches Swing which is stated in the specification of the application to default to

buffering it's output, similar to that of the DiNicola, but further teaches on page 1, paragraphs 4 and 5, swing being an API that can be independent of the operating system. It would have been obvious to one of ordinary skill in the art, having the teachings of DiNicola and Sun before him at the time the invention was made to modify the system of transmitting images either in sequence or as a combined image of DiNicola to include use of Java and it's cross platform component for Swing, as did Sun. One would have been motivated to make such a combination because Swing is referred to in the specification on page 34, where Swing is said to default to generating a combined image, and because the use of Java would allow for portability of the image display system, this would prove useful if the remote system was run on a different operating system.

18. With regard to claim 13, which teaches object code being part of a graphical user interface associated with the application program, DiNicola further teaches, in column 3, lines 10-13, a graphical user interface associated with the application program.

19. With regard to claim 19, DiNicola teaches a computer-readable storage device, comprising: an application program running under an operating system (see column 1, lines 6-15), an object created at runtime by the application program (see column 2, line 59 through column 3, lines 16; specifically column 3, lines 10-13), and creating a graphical representation of the object; enabling or disable buffering of the graphical representation of the object to a memory storage area prior to displaying the graphical representation, as directed by the application program (see column 2, line 59 through column 3, lines 16; specifically column 3, lines 10-13, and column 5, lines 18-32).

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DiNicola, however, doesn't teach a windows-based operating system or an interface independent of the operating system. Sun teaches Swing that is stated in the specification, as defaulting to buffering it's output, similar to that of DiNicola, but further teaches a windows-based operating system (see page 1, paragraph 4), and an interface that is independent of the operating system (see page 1, paragraphs 4 and 5). It would have been obvious to one of ordinary skill in the art, having the teachings of DiNicola and Sun before him at the time the invention was made to modify the system of transmitting images either in sequence or as a combined image of DiNicola to include use of Java and it's cross platform component for Swing, as did Sun. One would have been motivated to make such a combination because Swing is referred to in the specification on page 34, where Swing is said to default to generating a combined image, and because the use of Java would allow for portability of the image display system, this would prove useful if the remote system was run on a different operating system.

20. Claims 14-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over DiNicola, Fowler, and Sun.

21. With regard to claim 14, DiNicola and Sun teach the system that either transmits images to the display sequentially or as a combination image (see column 3, lines 10-13) and the use of 3 images layer on top of one another in a combination image (see column 5, lines 32-46), but does not teach a software component comprising an API of code which translates between code within the application program and the operating system. Fowler teaches Mixing Swing an AWT in the same application program (see

page 1, paragraph 2) as is taught in the specification of the case, and further teaches the use Java see page 2, paragraph 4. It is inherently know in the art that Swing a AWT are application program interfaces, which are defined as a set of routines that translate between an application program and a computer's operating system (see Microsoft Computer Dictionary Fifth Edition, page 33). It would have been obvious to one of ordinary skill in the art, having the teachings of DiNicola, Sun, and Fowler before him at the time the invention was made to modify the system of transmitting images either in sequence or as a combined image of DiNicola to include use of an API as did Fowler. One would have been motivated to make such a combination because Swing is referred to in the specification on page 34, and because the use of Java would allow for portability of the image display system, this would prove useful if the remote system was run on a different operating system.

22. With regard to claim 15, DiNicola and Sun teach the system that either transmits images to the display sequentially or as a combination image (see column 3, lines 10-13) and the use of 3 images layer on top of one another in a combination image (see column 5, lines 32-46), but does not teach an API that emulates that of a second API based on a windows based operating system. Fowler teaches Mixing Swing and AWT in the same application program (see page 1, paragraph 2), as is taught in the specification of the case, and further teaches this being a windows based operating system (see the figure on page 7). It would have been obvious to one of ordinary skill in the art, having the teachings of DiNicola, Sun, and Fowler before him at the time the invention was made to modify the system of transmitting images either in sequence or

as a combined image of DiNicola to include use of two different APIs as did Fowler.

One would have been motivated to make such a combination because Swing is referred to in the specification on page 34, and because the use of Java would allow for portability of the image display system, this would prove useful if the remote system was run on a different operating system.

23. With regard to claim 16, DiNicola and Sun teach the system that either transmits images to the display sequentially or as a combination image (see column 3, lines 10-13) and the use of 3 images layer on top of one another in a combination image (see column 5, lines 32-46), but does not teach the use of a second API, that of AWT.

Fowler teaches Mixing Swing and AWT in the same application program (see page 1, paragraph 2) as is taught in the specification of the case. It would have been obvious to one of ordinary skill in the art, having the teachings of DiNicola, Sun, and Fowler before him at the time the invention was made to modify the system of transmitting images either in sequence or as a combined image of DiNicola to include use of two different APIs, including AWT as did Fowler. One would have been motivated to make such a combination because Swing is referred to in the specification on page 34, and because the use of Java would allow for portability of the image display system, this would prove useful if the remote system was run on a different operating system.

24. With regard to claim 17, DiNicola and Sun teach the system that either transmits images to the display sequentially or as a combination image (see column 3, lines 10-13) and the use of 3 images layer on top of one another in a combination image (see column 5, lines 32-46), but does not teach the application program being written in

Java. Fowler teaches Mixing Swing and AWT in the same application program (see page 1, paragraph 2) as is taught in the specification of the case, and further teaches the use of Java see page 2, paragraph 4. It would have been obvious to one of ordinary skill in the art, having the teachings of DiNicola, Sun, and Fowler before him at the time the invention was made to modify the system of transmitting images either in sequence or as a combined image of DiNicola to include use of Java as did Fowler. One would have been motivated to make such a combination because Swing is referred to in the specification on page 34, where Swing is said to default to generating a combined image, and because the use of Java would allow for portability of the image display system, this would prove useful if the remote system was run on a different operating system.

25. Claims 20-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over DiNicola.

26. With regard to claim 20, which teaches the processor executing in the first mode when the display is directly coupled to the processor, DiNicola teaches, in column 4, lines 31-53, column 5, lines 4-17, and figures 1 and 6, the processor being able to execute in two modes, one which provides the images as combined image and one which provides individual images to the display. DiNicola, however, doesn't state that the selection is made due to the relative location of the display. It would have been obvious to one of ordinary skill in the art, having the teachings of DiNicola before him at the time the invention was made to modify invention of DiNicola to make the selection based on the relative location of the display. One would have been motivated to make



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such a combination because remote displays require transmission over what is some times slow medium, which would be less efficient if a plurality of images were sent as opposed to a combined image.

27. With regard to claim 21, which teaches the processor executing in the second mode when the display is remotely coupled to the processor, DiNicola teaches, in column 4, lines 31-53, column 5, lines 4-17, and figures 1 and 6, the processor being able to execute in two modes, one which provides the images as combined image and one which provides individual images to the display. DiNicola, however, doesn't state that the selection is made due to the relative location of the display. It would have been obvious to one of ordinary skill in the art, having the teachings of DiNicola before him at the time the invention was made to modify invention of DiNicola to make the selection based on the relative location of the display. One would have been motivated to make such a combination because remote displays require transmission over what is some times slow medium, which would be less efficient if a plurality of images were sent as opposed to a combined image.

28. With regard to claim 22, determining if the application program is operating in remote or direct mode, and creating a peer component to enable or disable buffering of the graphical representation of the object based on the determination made by the software component, DiNicola teaches, in column 4, lines 31-53, column 5, lines 4-17, and figures 1 and 6, the processor being able to execute in two modes, as selected by the selector [32], one which provides the images as combined image and one which provides individual images to the display. DiNicola, however, doesn't state that the

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selection is made due to the relative location of the display. It would have been obvious to one of ordinary skill in the art, having the teachings of DiNicola before him at the time the invention was made to modify invention of DiNicola to make the selection based on the relative location of the display. One would have been motivated to make such a combination because remote displays require transmission over what is some times slow medium, which would be less efficient if a plurality of images were sent as opposed to a combined image.

**(10) Response to Argument**

Claims 1-11, 20, and 21:

With respect to the group of claims including Claims 1-11, 20, and 21, the Appellant's arguments are focused on the limitations regarding the "composite display image may be presented to a display buffer before it is forwarded to the display". More specifically, as stated from representative Claim 1, the limitation argued is:

*wherein during a second mode the images are compiled as a combination image of at least one of said image drawn over at least another of said images and presented to the buffer before being forwarded to the display.*

Since the interpretation of the limitation is the basis for the arguments, the Examiner's interpretation is now given. The Examiner asserts the limitation is first of all part of two wherein statements where either, both, or neither are required by the claim language, as it is not positively recited as being part of the application program.

Secondly, the statement "presented to a buffer before being forwarded to the display"

does not limit the claim to present it to the buffer after compiling the images, but only to present it to the buffer at some time, before transmission to a display. Where a buffer is defined as an area of memory that temporarily stores data to be transferred. As stated in the eighth paragraph of MPEP 2101[R2].II.C.,

*“Office personnel are to give claims their broadest reasonable interpretation in light of the supporting disclosure. In re Morris, 127 F.3d 1048, 1054-55, 44 USPQ2d 1023,1027-28 (Fed. Cir. 1997).”*

Based on the interpretation of the claim limitations being argued, the Examiner will now explain how the teachings of the reference DiNicola et al. hereinafter DiNicola, are within the scope of these limitations.

DiNicola teaches, in column 2, line 59 through column 3, line 16, the use of several different buffers used in the display of an image. DiNicola teaches, in column 2, line 59 through column 3, line 16, specifically column 3, lines 10-13, a system that can be configured to either send images to the display separately or to combine two or more of the images and send them as a composite display image. DiNicola teaches, in column 3, lines 62-68 and column 5, lines 18-32, buffering the images before sending to the display. An example of DiNicola's teaching is given in column 5, lines 32-56, referencing figure 6. The example shows how multiple images (tree, house, and ball) that are individuals to begin with can be combined to form a composite image before being transferred to a display.

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The examiner will now address the individual arguments and statements made by the Appellant.

From page 8 of the Appeal Brief, from the second paragraph, the Appellant argues DiNicola does not disclose that the composite display image may be presented to a display buffer before it is forwarded to the display, as taught in present claims 1 and 5.

The examiner contends that DiNicola does show a composite display image where they further contemplate the use of a buffer before being transmitted to a display (see column 3, lines 62-68 and column 5, lines 18-32). It is further noted that the claim is not limited to presenting to a buffer as a composite image, nor even requiring the second mode being required.

From pages 8 of the Appeal Brief, from the third paragraph, the Appellant argues DiNicola, however, cannot be considered equivalent to the presently claimed "combination image", since DiNicola's image mixing process is performed downstream of the memory buffers.

The examiner contends that the claim as presently written only states that images are presented to a buffer before being forwarded to the display. DiNicola teaches, in column 3, lines 62-68 and column 5, lines 18-32, buffering the images before sending to the display.

From page 8 of the Appeal Brief, from the fourth paragraph, the Appellant argues DiNicola does not disclose the result of the image mixing process may be stored within memory buffers or within any other memory buffer before the composite display image is forwarded to the display.

The examiner contends that the claim as presently written only states that images are presented to a buffer before being forwarded to the display and not necessarily that the composite display image may be stored in memory buffers. DiNicola teaches, in column 3, lines 62-68 and column 5, lines 18-32, buffering the images before sending to the display, and further contemplates the use of a buffer for storing the composite image before being transmitted to a display (see column 3, lines 62-68 and column 5, lines 18-32).

From page 10 of the Appeal Brief, from the first paragraph, the Appellant argues the graphical display of DiNicola does not include an intermediate buffer, nor is there sufficient motivation within DiNicola that would enable one skilled in the art to modify the display system of DiNicola to include an intermediate buffer.

The examiner contends that DiNicola teaches, in column 3, lines 62-68 and column 5, lines 18-32, buffering the images before sending to the display, and further contemplate the use of a buffer for storing the composite image before being transmitted to a display (see column 3, lines 62-68 and column 5, lines 18-32). DiNicola presents the ability to omit this intermediate buffer as an advantage over prior art. It is

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further noted that the claim is not limited to presenting to a buffer as a composite image, nor even requiring the second mode being required.

From page 10 of the Appeal Brief, from the third paragraph, the Appellant argues DiNicola describes the intentional absence of an intermediate frame buffer as an advantage over the prior art display system.

The examiner contends that this contemplation of the buffer existing is sufficient enough to assert that a buffer can be located at this post compilation location.

From page 10 of the Appeal Brief, from the third paragraph to the fifth paragraph, the Appellant argues DiNicola would still lack the teaching or suggestion for enabling the buffering capability during a first mode and disabling the buffering capability during a second mode.

The examiner contends that DiNicola does shows in column 2, line 59 through column 3, line 16, specifically column 3, lines 10-13, a system that can be configured to either send images to the display separately or to combine two or more of the images and send them as a composite display image, and further, when combining images DiNicola contemplates the use of a buffer for storing the composite image before being transmitted to a display (see column 5, lines 23-25). This claim, as written, only requires one or the other (enable or disable).

From page 11 of the Appeal Brief, from the forth paragraph, the Appellant argues that the Examiner has failed to adequately support and/or establish a prima facie ground of obviousness.

In response to applicant's argument that the examiner has failed to adequately support and/or establish a prima facie ground of obviousness, the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981). It is further noted that implementation of a GUI using a different programming language than that disclosed, is well known in the art.

From page 12 of the Appeal Brief, from the second paragraph, the Appellant argues There is no motivation to modify or combine the teachings of DiNicola and Fowler to provide the presently claimed display system and software components.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re*

*Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the use of Java would allow for portability of the image display system, this would prove useful if the remote system was run on a different operating system, and because Frame, Panel, and Button images are images that are frequently transferred to displays.

From page 13 of the Appeal Brief, from the fourth paragraph, the Appellant argues Fowler provides absolutely no teaching or suggestion for a display buffer, buffering of images, or any means for enabling/disabling a display buffer.

The examiner contends that Fowler is not relied upon for this limitation only for it's use of Java programming language, implementing display components.

From page 15 of the Appeal Brief, from the second paragraph, the Appellant argues that DiNicola and Sun disclose a software component, which is configured to enable or disable buffering of a sequence of images as a combination image before the combination image is sent to a display.

The examiner contends Sun is not relied upon for this limitation only for it's use of Java programming language, implementing display components. DiNicola does shows in column 2, line 59 through column 3, line 16, specifically column 3, lines 10-13, a system that can be configured to either send images to the display separately or to combine two or more of the images and send them as a composite display image, and



further, when combining images DiNicola contemplates the use of a buffer for storing the composite image before being transmitted to a display (see column 5, lines 23-25). This claim, as written, only requires one or the other (enable or disable).

From page 16 of the Appeal Brief, from the second paragraph, the Appellant argues There is no motivation to modify or combine the teachings of DiNicola and Sun to provide the presently claimed software component.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the use of Java would allow for portability of the image display system, this would prove useful if the remote system was run on a different operating system.

From page 16 of the Appeal Brief, from the second paragraph, the Appellant argues that the Examiner has failed to adequately support and/or establish a prima facie ground of obviousness.

In response to applicant's argument that the Examiner has failed to adequately support and/or establish a prima facie ground of obviousness, the test for obviousness

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is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981). It is further noted that implementation of a GUI using a different programming language than that disclosed, is well known in the art.

Claims 12-19 and 22:

With respect to the group of claims including Claims 12-19 and 22, the Appellant's arguments are focused on the limitations regarding the "enabling or disabling buffering of a graphical representation of the object to a memory storage area prior to displaying the graphical representation". More specifically, as stated from representative Claim 12, the limitation argued is:

*enabling or disabling buffering of said graphical representation during runtime as directed by the application program*

Since the interpretation of the limitation is the basis for the arguments, the Examiner's interpretation is now given. The Examiner asserts that the claim recites alternative language allowing for either the enabling or disabling of the buffering. Where a buffer is defined as an area of memory that temporarily stores data to be transferred. As stated in the eighth paragraph of MPEP 2101[R2].II.C.,

*“Office personnel are to give claims their broadest reasonable interpretation in light of the supporting disclosure. In re Morris, 127 F.3d 1048, 1054-55, 44 USPQ2d 1023,1027-28 (Fed. Cir. 1997).”*

Based on the interpretation of the claim limitations being argued, the Examiner will now explain how the teachings of the reference DiNicola et al. hereinafter DiNicola, are within the scope of these limitations.

DiNicola teaches, in column 2, line 59 through column 3, line 16, the use of several different buffers used in the display of an image. DiNicola teaches, in column 2, line 59 through column 3, line 16, specifically column 3, lines 10-13, a system that can be configured to either send images to the display separately or to combine two or more of the images and send them as a composite display image. DiNicola teaches, in column 3, lines 62-68 and column 5, lines 18-32, buffering the images before sending to the display. An example of DiNicola's teaching is given in column 5, lines 32-56, referencing figure 6. The example shows how multiple images (tree, house, and ball) that are individuals to begin with can be combined to form a composite image before being transferred to a display.

The examiner will now address the individual arguments and statements made by the Appellant.

From page 17 of the Appeal Brief, from the third paragraph, the Appellant argues DiNicola does not teach or suggest that memory buffers could be disabled in certain circumstances.

The examiner contends that DiNicola does shows in column 2, line 59 through column 3, line 16, specifically column 3, lines 10-13, a system that can be configured to either send images to the display separately or to combine two or more of the images and send them as a composite display image, and further, when combining images DiNicola contemplates the use of a buffer for storing the composite image before being transmitted to a display (see column 5, lines 23-25). Where when the images are not combined there is no subsequent buffering.

From page 18 of the Appeal Brief, from the first paragraph, the Appellant argues There is no motivation to modify or combine the teachings of DiNicola and Sun to provide the presently claimed computer readable store device or method.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the use of Java

would allow for portability of the image display system, this would prove useful if the remote system was run on a different operating system.

From page 18 of the Appeal Brief, from the second paragraph, the Appellant argues DiNicola cannot be modified with the capability for enabling an disabling memory buffers, since such modification would not allow the graphical display system of DiNicola to support both bit encoded and multi-plane lateral bit encoding techniques.

DiNicola does shows in column 2, line 59 through column 3, line 16, specifically column 3, lines 10-13, a system that can be configured to either send images to the display separately or to combine two or more of the images and send them as a composite display image, and further, when combining images DiNicola contemplates the use of a buffer for storing the composite image before being transmitted to a display (see column 5, lines 23-25). Where when the images are not combined there is no subsequent buffering. Therefor the contemplated buffer is located after the planes.

From page 19 of the Appeal Brief, from the second paragraph, the Appellant argues that the Examiner has failed to adequately support and/or establish a prima facie ground of obviousness.

In response to applicant's argument that the Examiner has failed to adequately support and/or establish a prima facie ground of obviousness, the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the

structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981). It is further noted that implementation of a GUI using a different programming language than that disclosed, is well known in the art.

From page 19 of the Appeal Brief, from the third paragraph, the Appellant argues "DiNicola, Fowler, and Sun each fail to disclose a method of displaying an object by enabling or disabling buffering of a graphical representation of the object".

The examiner contends that DiNicola does shows in column 2, line 59 through column 3, line 16, specifically column 3, lines 10-13, a system that can be configured to either send images to the display separately or to combine two or more of the images and send them as a composite display image, and further, when combining images DiNicola contemplates the use of a buffer for storing the composite image before being transmitted to a display (see column 5, lines 23-25). Where when the images are not combined there is no subsequent buffering.

From page 20 of the Appeal Brief, from the fourth paragraph, the Appellant argues there is no motivation to modify or combine the teachings of DiNicola, Fowler, and Sun to provide the presently claimed method.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the use of Java, as in Fowler and Sun would allow for portability of the image display system, this would prove useful if the remote system was run on a different operating system.

From page 20 of the Appeal Brief, from the fourth paragraph, the Appellant argues that the Examiner has failed to adequately support and/or establish a prima facie ground of obviousness.

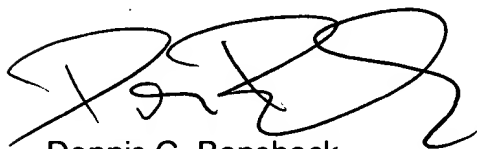
In response to applicant's argument that the Examiner has failed to adequately support and/or establish a prima facie ground of obviousness, the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981). It is further noted that implementation of a GUI using a different programming language than that disclosed, is well known in the art.

**(11) Related Proceeding(s) Appendix**

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,



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February 26, 2007



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